IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Rajasthan Co-operative Spinning Mills, Gulabpura Distt.Bhilwara v. Industrial Tribunal, Bhilwara & Ors.

S.B.CIVIL WRIT PETITION NO.6390/1992
under Article 226 of the Constitution of India.

Date of Order : 16th November, 2005

P R E S E N T

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Rajesh Joshi, for the petitioner.
Mr. R.N.Upadhyay, for the respondents.

BY THE COURT :

By this petition for writ validity of the award dated 25.6.1992 passed by the Industrial Tribunal, Bhilwara in Industrial Dispute No.26/79 is questioned. Learned Industrial Tribunal, Bhilwara by the award impugned allowed high cost allowance to the ministerial staff working with the petitioner w.e.f. 1.8.1972.

The workmen claimed high cost allowance in view of a decision taken by the Board of Directors of the petitioner unit to provide pay scales to the

clerical staff on basis of Beawar Index Pattern. The workmen also claimed high cost allowance according to the recommendations of the Second Wage Board for Cotton Textile units. Learned Industrial Tribunal accepted the claim made by the workmen on the grounds mentioned above and also for the reason that the high cost allowance was in prevalence in other similar industrial units at Beawar, Gulabpura and Vijaynagar.

Challenge to the award is given by the employer on the grounds that the petitioner industry was already giving better pay scales to its employees than the pay scales prescribed by the Wage Board, the industrial unit is suffering losses and, therefore, it is not in a position to bear the additional burden of high cost allowance and that Rashtriya Textile Karamchari Sangh was having no locus standi to pursue the industrial dispute which was decided by the tribunal by the award impugned.

I have perused the record of the case and also gone through the award impugned.

I do not find any force in the contention of counsel for the petitioner that Rashtriya Textile Karamchari Sangh was having no locus standi to pursue the demand of the workmen agitated under the award impugned. It is true that the demand at the first instance was raised by the Textile Mills Karamchari

Sangh and on instance of it the industrial dispute was referred for its adjudication. In industrial jurisprudence a trade union is a body which enters into negotiations with the employer for the welfare of the workmen as well as for the prosperity of the industry. The negotiations by a trade union to protect rights of workmen are in form of collective bargaining. A trade union ultimately represents and protects rights of workmen. A trade union cannot be denied to come forward to protect and safeguard interest of the workmen merely on the count that the demand under adjudication was not raised by it. If an issue relates to the workmen working with the industry then if a trade union comes forward to pursue the dispute then the union acts well within the duties embarked upon it. The award impugned cannot be held illegal merely on the count that it was pursued by a trade union which initially not raised the demand in question.

The other contention of counsel for the petitioner is that the industrial tribunal erred while applying the recommendations made by the Cotton Wage Board as the pay scales applicable in the industrial unit were better than the pay scales prescribed by the Wage Board.

In my opinion this issue is dealt with by the tribunal quite meticulously. The Wage Board made its

recommendations much back in the year 1960 and the prescribed pay scales given therein were relating to that year. The pay scales on which the petitioner relied are the pay scales given in the year 1972. As such the comparison made by the petitioner with the pay scales prescribed by the Wage Board in the year 1960 is misconceived. The Wage Board allowed high cost allowance to the staff of the Cotton Mill Units with their pay. The petitioner unit utterly failed to satisfy that the high cost allowance was merged with the pay scales prescribed. I do not find any illegality in giving high cost allowance to the ministerial staff of the petitioner industry. It is further pertinent to note that high cost allowance was in prevalence at the relevant time in other nearby similar industries situated at Gulabpura and Beawar. The petitioner industry also decided to provide pay scales to the clerical staff on the basis of Beawar Index Pattern. For this reason also the employees of the petitioner unit are entitled to high cost allowance according to the recommendations of the Wage Board for the Cotton Textile Industries.

The contention raised by counsel for the petitioner that the petitioner unit is suffering losses, therefore, it cannot bear the award given is also of no consequence as financial burden consequent to award pertains to the year 1972 and at the relevant time the industry was not suffering losses. Beside the

above workmen cannot be denied for its legitimate claim on the pretext that the industrial unit is suffering losses.

In view of it I do not find any force in this writ petition. The same is, therefore, dismissed.

(GOVIND MATHUR),J.

kkm/ps.